

California Regional Water Quality Control Board  
Santa Ana Region

STAFF REPORT

June 15, 2012

ITEM: \*6

SUBJECT: Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirements for Subsurface Disposal System Use - Juan and Nena Amaral, 3506 Riverside Drive, Chino, San Bernardino County, APN 1016-561-12

DISCUSSION:

On March 19, 2012, Guillermo Calvillo, on behalf of Juan and Nena Amaral, contacted staff and requested approval to connect a proposed detached bathroom to an existing septic tank-subsurface disposal system at the above-referenced site. There currently is a single family dwelling, guest house and detached garage on the property. Mr. & Mrs. Amaral reside in one of the two houses. An existing subsurface disposal system is utilized for the discharge of domestic waste from these houses. The property is approximately one acre in size (44,204 sq. ft. or 1.01-acre gross). This area of the County is unsewered and on-site septic tank-subsurface disposal systems are utilized for disposal of domestic wastes.

Mr. & Mrs. Amaral are proposing to construct a detached bathroom. The bathroom will be a room addition to the existing detached garage on their property. The proposed bathroom will be approximately 40 sq. ft. in size and will house a toilet, sink and shower, and is proposed be connected to the existing 1,500-gallon septic tank-subsurface disposal system that serves the two houses. The existing garage does not include any plumbing fixture units.

On October 13, 1989, the Regional Board adopted Resolution No. 89-157, which requires new developments for which on-site subsurface disposal system use is proposed to have a minimum one-half acre of land per dwelling unit. The Board found that it was necessary to limit the density of new subsurface disposal systems to control the nitrate quality problems found in the groundwater of the Region.

In adopting the minimum lot size requirements (MLSR), the Board recognized that it was appropriate to distinguish between "existing" developments using subsurface disposal systems (i.e., those already in place or approved at the time the MLSR were adopted), and "new" developments. The Board specifically exempted from the one-half acre requirement existing developments where septic tank-subsurface disposal systems had been installed by September 7, 1989 or for which conditional approval (e.g. conditional use permit, or conditional approval of tentative parcel or tract map) had been

obtained by that date. The one-half acre requirement applies only to “new” developments.

The Board also recognized that there would likely be proposals for additions to existing developments that would result in increased wastewater flow. The Board’s MLSR address these circumstances. The MLSR distinguish between the types of additions to existing dwelling units. Additions to existing dwellings (bedrooms/bathrooms) are exempt from the MLSR. However, the MLSR state that any proposal to add a freestanding structure that would result in additional wastewater flows must be considered a “new” development. The intent of distinguishing between additions that are attached to existing dwellings and freestanding structures was to guard against the use of the freestanding structure as another single-family residence on the property, which would result in substantial additional wastewater flows. The proposed bathroom constructed on the outside of the existing detached garage on Mr. and Mrs. Amaral’s property would be a freestanding structure. As such, the project as a whole (the existing two houses, the proposed bathroom and detached garage) must now be considered a “new” development to which the one-half acre minimum lot size requirement applies. The Amaral’s proposal does not comply with the Board’s minimum lot size requirements, as it could result in potentially three dwellings on a lot that is less than one and one-half acres in size. Accordingly, Board staff denied Mr. and Mrs. Amaral’s request for an exemption from the minimum lot size requirements.

The purpose of the proposed structure is to provide a convenient bathroom near the existing swimming pool and barbeque area so that guests would not need to walk up to the house to use the facilities. The bathroom will have a toilet, sink and shower. Mr. & Mrs. Amaral have assured staff that although the 40 sq. ft. bathroom will be attached to the existing garage, it will have no direct access to the garage. Each structure will have a separate entrance and neither structure can be converted into a dwelling unit. The use of the proposed bathroom should not result in additional wastewater flows to the existing septic tank-subsurface disposal system.

#### **RECOMMENDATION:**

Approve Mr. and Mrs. Amaral’s request for an exemption from the minimum lot size requirements for the construction of the bathroom because it will not result in a third dwelling unit on the one-acre lot, nor should it result in an increase in flows to the existing septic tank-subsurface disposal system.

Comments were solicited from the following agencies:

San Bernardino County Environmental Health Services – Josh Dugas / Hal Houser  
San Bernardino County Building and Safety – Harmon Randall  
City of Chino – Mike Heroux